

REMARKS

In the Office Action dated March 17, 2008, the Examiner indicates that the application contains claims directed to more than one species of the generic invention. Therefore, Applicants are required to elect a specific method of inducing cell lysis from the group consisting of

lysis mediated by antibody-dependent cell mediated cytotoxicity, or
lysis induced by an antibody conjugated to a toxic component.

According to the Examiner, these species lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Specifically, the Examiner alleges that under PCT Rule 13.2, the above species lack the same or corresponding special technical features. The Examiner contends that the method of Claim 9 has no special technical feature that defines a contribution over the prior art as evidenced by WO 01/40308. WO 01/40308 allegedly teaches a method of modulating an immune response comprising administering an antibody that induces dendritic cell lysis. Therefore, the Examiner concludes that the present claims do not have a special technical feature when viewed over the prior art, and therefore do not represent a single general inventive concept.

In order to be fully responsive to the Examiner's requirements for restriction, Applicants provisionally elect, with traverse, the species of lysis based on antibody-dependent cell mediated cytotoxicity. Applicants further submit that presently all pending claims (claims 1-20) are generic relative to the elected species, and claim 6 specifically recites the elected species. However, pursuant to 37 C.F.R. §§1.111 and 1.143, Applicants hereby traverse the Examiner's requirement for restriction and request reconsideration thereof in view of the following remarks.

A requirement for restriction presupposes an analysis of the subject application in light of the rules governing this practice, i.e., 37 C.F.R. §1.499 and PCT Rules 13.1 and 13.2. PCT Rule 13.1, first sentence, states: "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ('requirement of unity of invention')." (Emphasis added.) PCT Rule 13.2 states: "The expression 'technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." (Emphasis added.)

Applicants submit that WO 01/40308 discloses CMRF-58 molecules on dendritic cells. In contrast, the presently claimed subject matter relates to CD83. Applicants observe that the only mention of CD83 in WO 01/40308 appears at page 11, lines 28-30, which states that anti-CMRF-58 antibodies exhibit a different immunointeracting pattern from anti-CD83 antibodies. Thus, Applicants submit that WO 01/40308 does not disclose and is not relevant to the presently claimed subject matter. Therefore, the present claims share a technical feature that defines a contribution over the prior art.

Moreover, Applicants respectfully submit that unity of invention, not novelty, is the issue at hand. Applicants should be given the opportunity to argue the merits during prosecution, i.e., whether the claims are novel over prior art. Restriction of the claims at this stage would deny Applicants such an opportunity.

Accordingly, it is respectfully submitted that the present claims satisfy the requirements for unity of invention. Applicants respectfully urge that the Examiner reconsider and withdraw the requirement for restriction and provide an action on the merits with respect to all the claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Xiaochun Zhu', written in a cursive style.

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